

Adams - Direct

22

1 out this contract.

2 Q Would it be fair to say that it was your understanding
3 that Mr. Crowley, through his counsel, was looking for a lot
4 more?

5 A Well, I knew it. It wasn't only my understanding, I knew
6 that they were asking for a lot more, but they weren't going to
7 get it from me. And he knew it. He knew that there was a high
8 water mark, and he knew that if they could not come to terms I
9 was prepared reluctantly to go out to Denver myself.

10 I don't think I could do as good a job as Mr. Crowley,
11 nowhere near a job like he has done.

12 Q What has your role with the -- Coram been as opposed to
13 Mr. Crowley's role since March of 2002?

14 A What has my role been?

15 Q Yes.

16 A Like supervise the operation. I didn't tell him on a day-
17 to-day basis what to do, but I made certain that I reviewed
18 every major decision, every contract for over \$50,000, any
19 changes that he wanted to make in the executive branch, any
20 financial arrangements that Coram wanted to do, purchase of
21 software which was an especially big contract, caused me to
22 come out and interview the people for several hours to make
23 sure we were getting our money's worth.

24 I kept on top of it. I called him very frequently and
25 called people like Mr. Marabita. I supervised the claim

Adams - Cross/Godnick

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1 BY MR. GODNICK:

2 Q Judge Adams, I'd like to refer you to Equity Committee
3 Exhibit 6.

4 MR. GODNICK: I put that before Your Honor.

5 BY MR. GODNICK:

6 Q Those are the series of emails between Messrs. Schreiber
7 and --

8 A I got it. I got it.

9 Q Thank you. And specifically I'd like to direct your
10 attention to Mr. Schreiber's email to Mr. Cook dated April 5th,
11 2002 in which he says, among other things, no other attorney is
12 to know the Trustee needs to be part of those conversations.
13 Do you see that?

14 A I do.

15 Q Now, Judge Adams, as of April 5th am I correct it was your
16 understanding that Mr. Crowley believed that Cerberus owed him
17 money under the contract that had existed between Cerberus and
18 Mr. Crowley, correct?

19 A That's correct.

20 Q And it was your view, am I right, that that was a matter
21 between Cerberus and Mr. Crowley, correct?

22 A That was my view, yes.

23 Q And in fact, I think you testified earlier the resolution
24 of that, in terms of how much, if anything, Cerberus agreed to
25 pay Mr. Crowley was none of your business; is that right?

Saracco - Redirect

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1 your thirties and forties and thinking about doing something
2 like that again. And so that's why I share with you, I could
3 not -- if you ask me today, I could not tell you what would
4 happen if a change was made with Dan Crowley.

5 Q And you haven't told the Trustee what would happen,
6 either.

7 A No.

8 Q Thank you.

REDIRECT EXAMINATION

9
10 BY MR. BARKASY:

11 Q Mr. Saracco, when you just answered that last question I
12 took it to mean, and tell me if you disagree with me that you
13 haven't told the Trustee whether or not you would leave the
14 company because Dan Crowley was no longer with the company.

15 A We don't have those kinds of conversations, because in my
16 world people that do a good job aren't left to leave -- I'm
17 sorry, aren't asked to leave.

18 So, when I think about and look at what Dan Crowley's done
19 for Coram Healthcare, I can't even imagine that there would be
20 a reason that he wouldn't be here, because he's done the most
21 stellar job of any CEO, and I've probably reported directly or
22 indirectly to six or seven folks.

23 So, I'm under oath, and I'm being extremely honest. I
24 don't think about talking to the judge about what happens if a
25 certain person leaves. If it happens, myself and significant

Decision

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1 THE COURT: Because the ramifications of my decision
2 may have an impact on that.

3 MR. LEVY: Thank you very much, Your Honor.

4 THE COURT: All right?

5 We'll stand adjourned.

6 UNIDENTIFIED ATTORNEY: Thank you, Your Honor.

7 (Recording ends)

8 * * *

9 C E R T I F I C A T I O N

10 I, Betsy Wolfo, certify that the foregoing is a
11 correct transcript from the electronic sound recording of the
12 proceedings in the above-entitled matter.

13
14 Betsy Wolfo March 9, 2003
15 Betsy Wolfe Date

16 J&J COURT TRANSCRIBERS, INC.
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In The Matter Of:

In Re: Coram Healthcare - Chapter 11

Jerome Shestack, Esquire

November 14, 2003

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In Re: Coram Healthcare - Chapter 11

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[1]
[2] IN THE UNITED STATES BANKRUPTCY COURT
[3] FOR THE DISTRICT OF DELAWARE
[4]
[5] In re: : Chapter 11
CORAM HEALTHCARE CORP. :
[6] and CORAM, INC. :
: Case NO. 00-3299
[7] Debtors :
[8]
[9] Friday, November 14, 2003
[10]
[11]
[12] Pretrial examination of
[13] JEROME J. SHESTACK, ESQUIRE, held in the
[14] offices of WOLF, BLOCK, 1650 Arch Street,
[15] Philadelphia, PA 19103, commencing at 10:10
[16] a.m., on the above date, before Mickey
[17] Dinter, Registered Professional Reporter and
[18] Commissioner of Deeds for the Commonwealth
[19] of Pennsylvania.
[20]
[21] BRUSILOW & ASSOCIATES
[22] COURT REPORTERS & VIDEOGRAPHERS
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[22]
[23]
[24] CH-11 TRUSTEE/
CrowleyAdmin006383

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[1] bankruptcy?

[2] A: Not in those words. What I was
[3] looking for is as a result of the conflict,
[4] what was done that should not have been
[5] done or what was done that damaged the
[6] company or what acts were there that
[7] resulted from the conflict?

[8] I then followed the
[9] allegations in the Complaint, analyzing
[10] each one of the allegations to the extent
[11] that they were either conclusory or had a
[12] factual basis.

[13] Q: Did you also consider what was not
[14] done that should have been done?

[15] A: I considered it in the sense that
[16] there were questions raised with Professor
[17] Fischel and others as to what should have
[18] been done that wasn't done and no one could
[19] seem to come up with an answer.

[20] Q: Did you consider whether the company
[21] was in a position as a result of the
[22] conflict of interest to make an independent
[23] determination as to whether it was a
[24] reasonable business judgment to sell CPS

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[1] the pharmacy business?

[2] A: Well, I think in the case of CPS,
[3] they put out a number of bids. I think
[4] they got, maybe, 42 answers and then they
[5] had Brown looking into it. They narrowed
[6] the bids down and then they got a bid, the
[7] highest bid from, maybe, 41 million dollars
[8] and that was rejected. They sold it at a
[9] higher bid. So, it seemed to me that what
[10] was done was certainly a reasonable
[11] exploration with respect to the sale of
[12] that company and the realization of the
[13] best price they could get.

[14] Q: That was the assumption on which you
[15] based your evaluation?

[16] A: That wasn't the assumption of which
[17] I based my evaluation. I didn't make an
[18] evaluation. I made, I had an opinion with
[19] respect to the settlement. But, one of the
[20] matters that was asserted in the Complaint
[21] as being inappropriately handled was the
[22] sale of CPS. I looked at some of the
[23] answers to it. You could still argue that
[24] that shouldn't have been sold. I mean it's

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[1] not — none of these things are — very few
[2] of these things are open and shut. There
[3] are pretty good answers to the CPS. I
[4] think it comes in under — I will check in
[5] a moment.

[6] Q: Just for the record, the witness is
[7] looking at a particular document that the
[8] witness brought into the deposition which
[9] appears to be a number of typewritten
[10] pages.

[11] A: You are free to look at them later.

[12] Well, basically, the
[13] Complaint alleges that CPS was sold at,
[14] either shouldn't have been sold or was sold
[15] at an improper value and, I think, there
[16] are some pretty good answers to that
[17] allegation.

[18] Q: Just for the record, what is the
[19] document that you are looking at?

[20] A: These are my notes. I took each one
[21] of the counts. In that document, I set
[22] forth in very brief form what the
[23] allegation was, some of the questions that
[24] were raised by the allegations, what

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[1] evidence is shown dealing with that
[2] allegation. These are cursory notes that I
[3] prepared for myself.

[4] Q: You did that for purposes of
[5] assisting yourself in answering questions
[6] at the deposition today?

[7] A: Well, I did it originally in trying
[8] to reach my expert opinion; and then having
[9] done that from time to time, I would make
[10] corrections, especially since I have a new
[11] secretary.

[12] Q: What I would like to do is just mark
[13] that document as a deposition exhibit, so
[14] if we have questions later as to what you
[15] were referring to as you were testifying,
[16] we will have a record of that.

[17] A: Sure.

[18] (Shestack-3, notes of Mr.
[19] Shestack, marked for identification.)

[20] BY MR. BRADFORD:

[21] Q: I think you testified a few moments
[22] ago that, I don't want to put words in your
[23] mouth, but, in essence, that you took the
[24] proposed settlement and then evaluated

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[1] Q: And, so, was it your view that the
[2] fact that the company remained in
[3] bankruptcy for nearly three years may not
[4] be attributable to anything done by
[5] Mr. Crowley or Mr. Feinberg?

[6] A: Well, I don't know the answer to
[7] that. There are no allegations that show
[8] any evidence one way or another on that.

[9] Q: Do you believe it's fair to
[10] attribute the company's prolonged stay in
[11] bankruptcy to the fact that two plans of
[12] reorganization were put forth that were not
[13] in good faith?

[14] MR. GODNICK: Objection.

[15] THE WITNESS: What do you
[16] mean by "not in good faith"?

[17] BY MR. BRADFORD:

[18] Q: The Court made a finding that each
[19] of those plans did not qualify under the
[20] good faith standard for a bankruptcy plan.

[21] MR. MILLER: Objection.

[22] That is not what the Court's finding is.
[23] You will see those are not the words she
[24] used.

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[1] THE WITNESS: It seems to me
[2] that the basis of the Court's rejection
[3] of the plan was largely based on
[4] Crowley's conflict which eventually was
[5] solved, supposedly solved, by the second
[6] one, but not in the Court's mind. As to
[7] what effect that had on value of Coram
[8] or whether that is damages that could be
[9] attributable to any of the principles, I
[10] saw no evidence dealing with that
[11] subject at all.

[12] BY MR. BRADFORD:

[13] Q: Therefore, you gave very little
[14] value to such a claim?

[15] A: I wasn't able to evaluate it.

[16] Q: And to the extent that the Equity
[17] Committee did not supply proof of damages,
[18] did you find yourself in a position unable
[19] to evaluate the damages on your own?

[20] A: Well, what you look at is you had
[21] various experts. The Equity Committee did
[22] state how it reached the damages. It's
[23] experts stated the amount of its claim
[24] damages. It stated the basis for that

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[1] claim. It gave the legal analysis for it.
[2] So, it seemed to me that whatever claim the
[3] Equity Committee had for damages it
[4] asserted, and it was asked time and again,
[5] apparently, what were the damages and,
[6] basically, pointed to the 6.3 million note
[7] and the sale of CPS and that's about it.

[8] Q: Did you make any effort to evaluate
[9] for yourself what amount of damage, if any,
[10] might be attributable to the sale of CPS?

[11] A: No. I looked at the process, the
[12] competitive bidding, the analysis by Brown,
[13] what was achieved, what was done with the
[14] money. I had no basis for making my own
[15] evaluation as to what that company was
[16] worth, nor did anyone else come up with a
[17] value that seemed different than what the
[18] buyer bought it for.

[19] Q: And did you make any determination
[20] or come to any opinion about whether the
[21] conflict of interest tainted or infected
[22] the decision whether to sell that company?

[23] A: I assume that the conflict of
[24] interest was persuasive in anything that it

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[1] could affect. Now, if the conflict
[2] affected that sale and it was sold for less
[3] than it was worth, there didn't seem to be
[4] any evidence of it. All of the evidence
[5] seemed to be that proper procedure was
[6] used; that, I think, that the termination
[7] to sell it may have been before Crowley got
[8] there. The problems with that company were
[9] evident on the record and unchallenged.
[10] The bidding procedure was unchallenged, so
[11] I didn't see any reason to question what
[12] was done as being affected by a conflict of
[13] interest.

[14] Q: What did you understand the problems
[15] with CPS to be?

[16] MR. GODNICK: Objection.

[17] THE WITNESS: Well, among
[18] other things, it was a cash drain on the
[19] company.

[20] BY MR. BRADFORD:

[21] Q: Do you have any understanding of the
[22] amount of that cash drain?

[23] A: I did somewhere in my notes, if you
[24] want me to check.

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[1] could.

[2] Q: Did you, in the context of
[3] evaluating the yardstick damages, compare
[4] the value of Coram today according to the
[5] valuations that were done in 2003 by EMB
[6] and SSG, which I see are among your
[7] documents, with the value of the company,
[8] say, three years ago when Crowley took
[9] over?

[10] A: No, I didn't do that. Professor
[11] Fischel didn't do that either.

[12] Q: Do you recognize that the values
[13] assigned to the company today by the
[14] financial advisors are relatively in the
[15] same ballpark as the valuations that were
[16] being done by Chanin and Warberg two or
[17] three years ago?

[18] A: I didn't concentrate on the
[19] valuation aspect, other than taking
[20] valuations that were given the way
[21] Professor Fischel took a valuation or
[22] others that were used for purposes of
[23] accepting the hypothesis of this case.

[24] Q: Are you familiar with the fact that

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[1] there is litigation between Coram and
[2] PriceWaterhouse Coopers?

[3] A: I'm not.

[4] Q: You have not seen the damage report
[5] that was done in that case?

[6] A: No.

[7] Q: Give me a minute.

[8] A: Is Coram suing PriceWaterhouse? You
[9] have to stand in line.

[10] MR. BRADFORD: This is as
[11] good a time as any to quit at four.

[12] (Deposition adjourned,
[13] 4 p.m.)

[14]

[15]

[16]

[17]

[18]

[19]

[20]

[21]

[22]

[23]

[24]

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[1] CERTIFICATION

[2]
[3] I hereby certify that the testimony
[4] and the proceedings in the foregoing matter
[5] are contained fully and accurately in the
[6] stenographic notes taken by me, and that
[7] the copy is a true and correct transcript
[8] of the same.

[9]

[10] MICKEY DINTER

Registered Professional Reporter

[11]

[12]

[13] The foregoing certification does not apply
[14] to any reproduction of the same by any
[15] means unless under the direct control
[16] and/or supervision of the certifying
[17] shorthand reporter.

[18]

[19]

[20]

[21]

[22]

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[24]

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[1] SIGNATURE PAGE

[2]

[3]

[4] I hereby acknowledge that I have read
[5] the foregoing transcript, and the same is a
[6] true and correct transcription of the
[7] answers given by me to the questions
[8] propounded, except for the changes, if any,
[9] noted on the errata sheet.

[10]

[11]

[12] SIGNATURE:
[13] DATE:

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[24]

CH-11 TRUSTEE/
CrowleyAdmin006442

In The Matter Of:

In Re: Coram Healthcare - Chapter 11

Hon. Arlin Adams

January 21, 2004

Brusilow & Associates

1926 Arch Street

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CH-11 TRUSTEE/
CrowleyAdmin001615

In Re: Coram Healthcare - Chapter 11

Hon. Arlin Adams
January 21, 2004

Page 1	Page 2
<p>(1) IN THE UNITED STATES BANKRUPTCY COURT</p> <p>(2) FOR THE DISTRICT OF DELAWARE</p> <p>(3)</p> <p>(4) In re: : Chapter 11</p> <p>(5) CORAM HEALTHCARE CORP. : and CORAM, INC. :</p> <p>(6) : Case NO. 00-3299</p> <p>(7) Debtors :</p> <p>(8)</p> <p>(9) Wednesday, January 21, 2004</p> <p>(10)</p> <p>(11) Continued pretrial examination of</p> <p>(12) HON. ARLIN ADAMS, held in the offices of</p> <p>(13) Schnader, Harrison, Segal & Lewis, 32nd</p> <p>(14) Floor, Philadelphia, PA 19103, commencing</p> <p>(15) at 11:02 a.m., on the above date, before</p> <p>(16) Mickey Dinter, Registered Professional</p> <p>(17) Reporter and Commissioner of Deeds for the</p> <p>(18) Commonwealth of Pennsylvania.</p> <p>(19)</p> <p>(20) BRUSLOW & ASSOCIATES</p> <p>(21) COURT REPORTERS & VIDEOGRAPHERS</p> <p>(22) 1928 Arch Street - 1st Floor West</p> <p>(23) Philadelphia, PA 19103-1404</p> <p>(24) 215.977.9700 www.bruslow.com</p>	<p>(1) APPEARANCES:</p> <p>(2) JENNER & BLOCK</p> <p>BY: RICHARD LEVY, ESQUIRE</p> <p>(3) STEVE TOMASHEFSKY, ESQUIRE</p> <p>One IBM Plaza</p> <p>(4) Chicago, IL 60611</p> <p>312-222-9350</p> <p>(5) rlevy@jenner.com</p> <p>Counsel for the Equity Committee</p> <p>(6)</p> <p>(7)</p> <p>SCHULTE, ROTH & ZABEL, LLP (By telephone)</p> <p>(8) BY: HOWARD GODNICK, ESQUIRE</p> <p>919 Third Avenue</p> <p>(9) New York, New York 10022</p> <p>212-756-2000</p> <p>(10) howard.godnick@srz.com</p> <p>Counsel for Cerberus Partners, L.P.</p> <p>(11)</p> <p>(12)</p> <p>SCHNADER, HARRISON, SEGAL & LEWIS</p> <p>(13) BY: BARRY BRESSLER, ESQUIRE</p> <p>1600 Market Street</p> <p>(14) Philadelphia, PA 19103</p> <p>215-751-2336</p> <p>(15) bbressler@schnader.com</p> <p>Counsel for the Trustee</p> <p>(16)</p> <p>(17) WEIL, GOTSHAL & MANGES LLP (By telephone)</p> <p>BY: JOHN A. NEUWIRTH, ESQUIRE</p> <p>(18) 767 Fifth Avenue</p> <p>New York, New York 10153-0119</p> <p>(19) 212-310-8722</p> <p>john.neuwirth@weil.com</p> <p>(20) Counsel for Goldman Sachs, Credit Partners,</p> <p>L.P., Foothill Capital Corporation</p> <p>(21)</p> <p>(22)</p> <p>(23)</p> <p>(24)</p> <p>CH-11 TRUSTEE/ CrowleyAdmin001616</p>

Hon. Arlin Adams
January 21, 2004

In Re: Coram Healthcare - Chapter 11

<p>Page 11</p> <p>(1) the benefits of the directors and officers (2) liability insurance, correct? (3) A: That's right. (4) Q: Do you have any notion as to the (5) value of those claims to the equity (6) holders that purport to be assigned under (7) this plan modification? (8) A: I really don't have an idea of the (9) value. The problem in the claim against (10) Dan Crowley is, again, damages. I think (11) it would be hard-pressed, we would be (12) hard-pressed if we were asserting the (13) claim to establish damages, even though (14) there is a finding by Judge Walrath (15) against Dan Crowley because I think there (16) will be some difficulty in establishing (17) that whatever he did was deleterious to (18) the financial well-being of Coram. (19) Q: You never retained or authorized (20) the retention of a damage expert to (21) analyze the potential damage claims (22) against Dan Crowley, did you? (23) A: We did not because, there, again, (24) it's premature. We didn't want to do that</p>	<p>Page 13</p> <p>(1) understand that? (2) A: Settlement of the PriceWaterhouse? (3) Q: Or Crowley or anything assigned (4) under the plan modification. (5) A: That is correct. I think we have (6) to. (7) Q: If the equity holders are to (8) receive the benefit of any of this (9) litigation or settlement, why is it (10) important that you, rather than the Equity (11) Committee, retain this control? (12) A: I think we have to do it. (13) Q: What is the basis? (14) A: The claim is ours. We can enlist (15) your help in asserting the claim. It (16) would have to be done by the Trustee. (17) That's my understanding. (18) Q: Is that the only reason, it's your (19) belief that as a matter of law you could (20) not give control of that to, say, a (21) litigation trust? (22) MR. BRESSLER: Objection to (23) the form of the question. (24) THE WITNESS: That was my</p>
<p>Page 12</p> <p>(1) at this early stage until we knew where we (2) were going. We had to do it in the (3) PriceWaterhouse because we couldn't talk (4) to the other side without doing it. (5) Q: Why do you believe it's premature, (6) judge? (7) A: We don't know who is going to have (8) this claim. (9) Q: You didn't seek the consent of the (10) Equity Committee to the terms of the plan (11) modification that you have in front of (12) you, did you? (13) A: I can't tell you whether Barry (14) spoke to you or your colleagues. I don't (15) know. I did not. (16) Q: So far as you know, there was no (17) communication with the Equity Committee (18) before this? (19) A: To my knowledge, you are correct. (20) Q: Under the provisions of this plan (21) modification, you retained, you and you (22) alone decide whether to commence, (23) prosecute, compromise and seek Bankruptcy (24) Court approval of any settlement, do you</p>	<p>Page 14</p> <p>(1) understanding. (2) BY MR. LEVY: (3) Q: Is that the only reason? (4) A: I remember discussing this with (5) counsel and I was told at that time that (6) we would be obligated, when we say "we," (7) the Trustee would be obligated to assert (8) the claim. The Trustee could agree to (9) give the proceeds of the claim to another (10) party and enlist the help of the other (11) party in prosecuting the claim, but it (12) would have to be done under the aegis of (13) the Trustee. (14) Q: That is not quite the question I (15) asked. Apart from who asserts the claim, (16) the question has to do with the provision (17) that says that you and you alone have the (18) right to commence, prosecute and (19) compromise the claims. Do you believe (20) that right, the right to commence, (21) prosecute and compromise could have been (22) given to the Equity Committee or a (23) post-confirmation litigation trust? (24) MR. BRESSLER: Objection to</p>

Hon. Arlin Adams
January 21, 2004

In Re: Coram Healthcare - Chapter 11

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(1) A: I will not object.
(2) MR. GODNICK: Excuse me,
(3) Mr. Levy, you made requests to the
(4) judge to extend this beyond an hour,
(5) an hour and 15 minutes, an
(6) hour-and-a-half and you were basically
(7) on your knees and she made it very
(8) clear to you and to the court on the
(9) record that this was to be 60 minutes
(10) and no longer.
(11) THE WITNESS: I don't want
(12) to contradict the judge, no. I want
(13) to cooperate, but I don't want to
(14) contradict the Court.
(15) MR. BRESSLER: Your last
(16) question, please.
(17) MR. LEVY: I have a series
(18) of questions that I guarantee will
(19) take five minutes.
(20) MR. GODNICK: I object.
(21) MR. LEVY: Mr. Bressler —
(22) MR. BRESSLER: Ask your
(23) next question.
(24) MR. LEVY: Can I have five

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(1) minutes? I don't want to ask one
(2) question and be cut off.
(3) MR. BRESSLER: You are now
(4) over your limit. We are going to give
(5) you one more question anyway.
(6) THE WITNESS: I think we
(7) are using up too much time.
(8) BY MR. LEVY:
(9) Q: Do you recall a meeting on
(10) November 25th attended by representatives
(11) of the noteholders, you, your counsel?
(12) A: I think I do, yes.
(13) Q: Prior to that meeting, you had
(14) started a process with your investment
(15) bankers?
(16) MR. BRESSLER: These have
(17) been asked and answered of other
(18) people.
(19) THE WITNESS: I did consult
(20) with investment counselors prior to
(21) that meeting.
(22) MR. BRESSLER: You are over
(23) your time.
(24) MR. LEVY: Okay. I can't

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(1) really continue with that kind —
(2) THE WITNESS: Ask me
(3) another two or three questions.
(4) MR. LEVY: I know you want
(5) to cooperate. Your counsel and Mr.
(6) Godnick seem to think five minutes is
(7) just too important.
(8) MR. GODNICK: Judge Walrath
(9) seems to think that anything in excess
(10) of 60 minutes was verboten. You asked
(11) her seven ways to sundown. You can
(12) take issue with the judge.
(13) MR. LEVY: I take issue.
(14) I'm not going to argue about it.
(15) Thank you, judge.
(16) MR. BRESSLER: Your last
(17) topic was going to be about the
(18) November 25th meeting with the
(19) noteholders. Three other people have
(20) testified about that. If it was some
(21) crucial topic that no one else might
(22) have testified to, I may have let him
(23) testify.
(24) (Deposition concluded.)

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(1) CERTIFICATION
(2)
(3) I hereby certify that the testimony
(4) and the proceedings in the foregoing
(5) matter are contained fully and accurately
(6) in the stenographic notes taken by me, and
(7) that the copy is a true and correct
(8) transcript of the same.
(9)
(10) MICKEY DINTER
Registered Professional Reporter
(11)
(12)
(13) The foregoing certification does not apply
(14) to any reproduction of the same by any
(15) means unless under the direct control
(16) and/or supervision of the certifying
(17) shorthand reporter.
(18)
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(23)
(24)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE: Case Nos. 00-3299 (MFW) and
00-3300 (MFW)
(Jointly Administered under)
00-3299)
CORAM HEALTHCARE CORP. and
CORAM, INC., 824 Market Street
Wilmington, Delaware 19801
Debtors. January 22, 2004
9:41 a.m.

TRANSCRIPT OF HEARING
BEFORE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For Cerberus:

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By: MICHAEL L. COOK, ESQ.
HOWARD GODNICK, ESQ.
NIKHIL SINGHVI, ESQ.
SOPHIE KIM, ESQ.
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New York, NY 10022

For Chapter 11 Trustee:

Schnader Harrison Segal
& Lewis, LLP
By: BARRY E. BRESSLER, ESQ.
WILLIAM KIPNES, ESQ.
RICHARD BARKASY, ESQ.
MICHAEL BARBIE, ESQ.
1600 Market Street
Suite 3600
Philadelphia, PA 19103

Audio Operator:

Jennifer M. Patone

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

J&J COURT TRANSCRIBERS, INC.
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Hamilton, New Jersey 08619
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(609) 586-2311 Fax No. (609) 587-3599

Shestack - Cross/Bradford

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1 review of the record indicated to you, did it not, that there
2 was no secret in July of 2000 that Coram might file bankruptcy?

3 A I think it was -- yes, I think it was headed for
4 insolvency earlier than the actual filing.

5 Q Okay, and --

6 A By the way, on -- in terms of the fairness of the CPS
7 deal, Brown, as I recall, opined specifically that they thought
8 it was a fair deal. That the \$42 million that was received was
9 fair, so at least you have one independent expert group opining
10 as to the fairness of that. You could make the argument the
11 other way, but you did have a respectable investment banking
12 house saying it was fair.

13 Q You would agree, would you not, that it is not an
14 opportune time to maximize the price for a sale of an asset to
15 sell it at a time when you're on the verge of filing
16 bankruptcy?

17 A I don't know the answer to that. I mean if when you need
18 the money or you're in a cash drain, you need it then. Then
19 you do what the Board thought was necessary. This was an
20 independent Board except perhaps for Feinberg. They had the
21 proposition before them, and they made an independent decision.
22 It may have been an unwise decision, but that decision, it
23 seems to me, would pass the business judgment rule.

24 Q When a company buys an asset from an insolvent company on
25 the brink of bankruptcy, they take certain legal risks. Do

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Adams - Direct/Bressler

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1 greater consideration, I thought the consideration that we were
2 obtaining was a reasonable amount. Now I had some doubt,
3 because they had strongly urged upon me the value of what they
4 refer to as a derivative action. That was an action that Mr.
5 Levy and Mr. Liebentritt had brought to my attention. In fact,
6 gave me a copy of the draft complaint, and they were seeking a
7 very substantial amount of money. So that before I would sign
8 the agreement and the plan, I thought I had to call upon the
9 best legal mind that was available to me, and I looked around
10 with that in mind. I have known Jerry Shestack for a long
11 time. He clerked for the Court, as you have already heard. I
12 knew him when he was President of the ABA. He's known as one
13 of the very top litigators both nationally and certainly in the
14 Delaware Valley, and I called him and I asked him if he would
15 be willing to evaluate that claim. It meant a great deal to
16 me.

17 He was very busy at the time. He said he would put
18 aside everything and do that, and I told my staff to give him
19 every conceivable piece of paper or anything that he asked for
20 or his staff, and before I signed these documents, I had a long
21 discussion with him, and I said, "Jerry, I just want you to
22 give me your unvarnished opinion. I want you to take sides for
23 me, against me. Is that reasonable for me to accept the \$56
24 million payment under this context?" He said that he thought
25 it was, and I asked him if he would write a report to that

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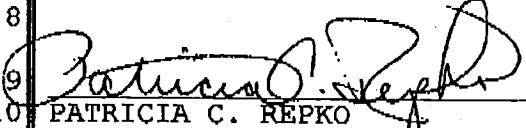
1 Monday.

2 * * * * *

3 CERTIFICATION

4 I, PATRICIA C. REPKO, court approved transcriber,
5 certify that the foregoing is a correct transcript from the
6 official electronic sound recording of the proceedings in the
7 above-entitled matter.

8

9 
10 PATRICIA C. REPKO

Date: February 2, 2004

11 J&J COURT TRANSCRIBERS, INC.

J&J COURT TRANSCRIBERS, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GENESIS INSURANCE COMPANY,

Plaintiff and
Counterclaim Defendant,

vs.

DANIEL D. CROWLEY,

Defendant and Third-Party
Plaintiff,

ARLIN M. ADAMS,
Chapter 11 Trustee of the Bankruptcy
Estates of Coram Healthcare Corporation
and Coram, Inc.,

Defendant and
Counterclaimant,

NATIONAL UNION FIRE INSURANCE COMPANY OF
PITTSBURGH, PA,

Third-Party Defendant.

Case No.

05-CV-335-WDM
-PAC

DEPOSITION OF DONALD J. AMARAL
August 30, 2006
Palo Alto, California

Reported by:
EMI ALBRIGHT
RPR, CSR No. 13042
Job No. 70613

CERTIFIED
COPY

1 possibly coming into it with an equity partner being
2 Cerberus.

3 Q So Feinberg told you that he -- that he and
4 Cerberus had worked with Crowley in connection with another
5 situation?

6 A Yes.

7 Q And did he tell you that Crowley was working for
8 any other companies in which Cerberus had a financial
9 interest?

10 A He made me aware of the relationship with
11 Winterland.

12 Q What is Winterland?

13 A T-shirt company.

14 Q Do you understand it was a little more than a
15 T-shirt company, that Winterland was a rock and roll venue in
16 San Francisco?

17 A I grew up here and I know what Winterland was.
18 But I understood it until just now to be a T-shirt company.

19 Q You never had an understanding that it was a
20 little broader than that, that they sold all kinds of music,
21 rock and roll type memorabilia in addition to T-shirts?

22 A No, sir.

23 Q But did you understand that Cerberus had some
24 sort of financial relationship with Winterland?

25 A Yes.

1 Q And how did you have that understanding, sir?

2 A Feinberg told me.

3 Q Did you understand that Crowley had a role in
4 connection with Winterland?

5 A Yes.

6 Q And what did you understand that role to be?

7 A He was a consultant to the CEO.

8 Q And so you understood that he was providing
9 services to Winterland?

10 A Yes.

11 Q And you also understood that he was getting paid
12 to do that work; right?

13 A Yes.

14 Q You knew when Crowley was consulting, he was
15 doing it, that was how he made a living; right?

16 A Correct.

17 Q So is it a fair statement then that you knew from
18 the beginning that Crowley was also working at the very least
19 for Winterland, this other Cerberus company?

20 A Yeah.

21 MR. KIPNES: Object to the form.

22 BY MR. PETERS:

23 Q Did you care how much Crowley was getting paid to
24 work at Winterland? Was that something that you thought was
25 important information to obtain?

1 A No.

2 Q Did you think it was important for you to obtain
3 information about what, if anything, Crowley was getting paid
4 by Cerberus to perform whatever consulting services he may
5 have been performing for them?

6 A No.

7 Q Did you ever ask Feinberg for that information?

8 A No.

9 Q Feinberg certainly knew whatever Cerberus or
10 Cerberus companies were paying Crowley; correct?

11 A I assume.

12 Q You would have assumed that Feinberg, also a
13 board member of Coram, could have provided you that
14 information if you had asked him for it --

15 A Yes.

16 Q -- correct? But you never did; right?

17 A No.

18 Q Now, there came a time that Dan Crowley started
19 performing services for Coram; is that right?

20 A Yes.

21 Q And at various points in time Dan negotiated with
22 members of the Coram board his compensation package; correct?

23 MR. KIPNES: Object to the form.

24 A Don't remember.

25 BY MR. PETERS:

1 Crowley?

2 A Yes.

3 Q And then the board approved the agreement that
4 Feinberg and Crowley reached?

5 A Yes.

6 Q And at that time you were aware that Crowley was
7 performing services for Winterland; correct?

8 A Yes.

9 Q You understood he was getting paid to perform
10 those services; correct?

11 A Yes.

12 Q And you didn't ask because you didn't care how
13 much he was getting paid to perform those services; correct?

14 A Correct.

15 Q Did you understand that he was getting paid to
16 perform services by Winterland or by Cerberus or did you not
17 have an understanding about that because you didn't care?

18 A I didn't care.

19 Q So whether he was getting paid by Cerberus or
20 whether he was being paid by Winterland, didn't make any
21 difference to you?

22 A No.

23 Q And then for how long did Dan Crowley serve as
24 the CEO of Coram?

25 A Couple of years.

1 Q He stepped into the same menu of problems that
2 you've described for us that were facing the company when you
3 were the CEO; is that a fair statement?

4 A Yes.

5 Q Did he address them?

6 A Yes.

7 Q Can you tell us how he addressed the issue of
8 cash flow?

9 A Dan is an operating maestro. He fine tuned and
10 tweaked the system. He took costs out. He improved the
11 management information systems and cut cost. He cut costs,
12 increased revenues, increased collections, which is different
13 than revenues, and he provided charismatic leadership.

14 Q How about the Aetna R-Net situation? Did he have
15 to address that?

16 A He came to resolution with that. He settled
17 that.

18 Q How about employee instability?

19 A His leadership. Company was looking for
20 leadership.

21 Q And how would you rate Dan Crowley's performance
22 as the CEO of Coram during the entire period of time that he
23 performed that job?

24 A Good to excellent.

25 Q You said that when the company was placed in

1
2
3
4 I, the undersigned, a Certified Shorthand
5 Reporter of the State of California, do hereby
6 certify:

7 That the foregoing proceedings were taken
8 before me at the time and place herein set forth; that
9 any witnesses in the foregoing proceedings, prior to
10 testifying, were placed under oath; that a verbatim
11 record of the proceedings was made by me using machine
12 shorthand which was thereafter transcribed under my
13 direction; further, that the foregoing is an accurate
14 transcription thereof.

15 I further certify that I am neither
16 financially interested in the action nor a relative or
17 employee of any attorney of any of the parties.

18 IN WITNESS WHEREOF, I have this date
19 subscribed my name.

20
21 Dated: SEP 13 2006

22
23
24 Emi Albright

25 EMI ALBRIGHT, CSR No. 13042

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GENESIS INSURANCE COMPANY,)	
)	
Plaintiff and)	
Counterclaim Defendant,)	Case No.
)	
vs.)	05-CV-335-WDM
)	-PAC
DANIEL D. CROWLEY,)	
)	
Defendant and Third-Party)	
Plaintiff,)	
)	
ARLIN M. ADAMS,)	
Chapter 11 Trustee of the Bankruptcy)	
Estates of Coram Healthcare Corporation)	
and Coram, Inc.,)	
)	
Defendant and)	
Counterclaimant,)	
)	
NATIONAL UNION FIRE INSURANCE COMPANY OF)	
PITTSBURGH, PA,)	
)	
Third-Party Defendant.)	

DEPOSITION OF SANDRA R. SMOLEY
August 31, 2006
Palo Alto, California

Reported by:
EMI ALBRIGHT
RPR, CSR No. 13042
Job No. 70614A

Page 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

GENESIS INSURANCE COMPANY,)
)
Plaintiff and)
Counterclaim Defendant,) Case No.

vs.) 05-CV-335-WDM
) -PAC

DANIEL D. CROWLEY,)
)
Defendant and Third-Party)
Plaintiff,)

ARLIN M. ADAMS,)
)
Chapter 11 Trustee of the Bankruptcy)
Estates of Coram Healthcare Corporation)
and Coram, Inc.,)

)
)
Defendant and)
Counterclaimant,)

NATIONAL UNION FIRE INSURANCE COMPANY OF)
PITTSBURGH, PA,)

)
)
Third-Party Defendant.)

DEPOSITION OF SANDRA R. SMOLEY, taken on behalf of
Plaintiff and Counterclaim Defendant, at 650 Page Mill Road,
Palo Alto, California, beginning at 10:11 a.m. and ending at
11:05 a.m., on August 31, 2006, before me, EMI ALBRIGHT, RPR,
CSR No. 13042.

Page 3

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Page 4

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Page 5

EXAMINATION INDEX

WITNESS: SANDRA R. SMOLEY

EXAMINATION BY: PAGE NO.

Mr. Judge	6
Ms. Mims	26
Mr. Senter	33

EXHIBIT INDEX

EXHIBIT NO. DESCRIPTION PAGE NO.

(No exhibits marked for identification.)

Page 14

1 Goldin. And we affirmatively moved directly to look into it.
 2 Q. When you say a special committee was formed, was that an
 3 independent committee from Mr. Crowley and Mr. Fineberg?
 4 A. Yes, I mean, they weren't on it. It was a special committee
 5 of the board.
 6 Q. Who was on that committee?
 7 A. Well, the chair was Don Amaral.
 8 Q. And it was you?
 9 A. Yes.
 10 Q. Was it Mr. Casey on the board?
 11 A. Yes.
 12 Q. Mr. Smith on that committee?
 13 A. I don't remember Mr. Smith.
 14 Q. Do you remember anybody else being on that committee?
 15 A. No.
 16 Q. Was that committee -- whose idea was it to form this special
 17 independent committee to address Judge Walrath's decision?
 18 A. The board -- the independent board members.
 19 Q. When you say the independent board members, is that everybody
 20 other than Mr. Crowley?
 21 A. Correct.
 22 Q. Did you do that pursuant to advice of counsel, say, from
 23 Mr. Friedman?
 24 A. I don't recall his direct -- we thought it up and we moved
 25 forward. And we did get advice of counsel but I'm not quite

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1 sure who it was.
 2 Q. Did any counsel associated with Coram say to the board at or
 3 around that time, look, before you do anything else, you have
 4 to either terminate the employment with Mr. Crowley or
 5 Mr. Crowley has to terminate his relationship with Cerberus?
 6 A. We were never told that.
 7 Q. Did you believe that was necessary --
 8 A. We never thought of that. We were moving ahead looking into
 9 it with this special committee.
 10 Q. When you were moving ahead with the special committee, the
 11 board knew about Mr. Crowley's relationship with Cerberus?
 12 A. I'm not 100 percent sure the timing of that. It was found
 13 out when disclosures were -- and I don't know where it was in
 14 relationship to that.
 15 Q. But certainly after the judge's ruling and the judge said,
 16 look, there is this relationship between Crowley and Cerberus
 17 which I think is a conflict of interest, the board had before
 18 it the information regarding Mr. Crowley's relationship with
 19 Cerberus?
 20 A. I'm just unclear as to the timing.
 21 Q. All right.
 22 A. I knew about it at some point. I don't know where it was in
 23 relationship to what you are asking.
 24 Q. When you learned of the relationship between Mr. Crowley and
 25 Cerberus, did you conclude that that was a conflict of

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1 interest that would preclude him from continuing as chief
 2 executive officer at Coram?
 3 A. No.
 4 Q. Why did you think that?
 5 A. Well, he was a person that came in and did multiple jobs. We
 6 weren't the only place he was CEO. He was CEO in multiple
 7 areas. And my feeling was I don't care what he is doing
 8 outside of his job with Coram. And he was doing a
 9 magnificent job at Coram. And so my feeling is he's a
 10 consultant elsewhere was of no issue to me.
 11 Q. Was the board providing active oversight over Mr. Crowley?
 12 A. Oh, yes.
 13 Q. So if you had seen that Mr. Crowley was actually acting in
 14 some particular way against the interests of Coram, perhaps
 15 in the best interests of Cerberus, the board would have taken
 16 steps to address that?
 17 A. Well, I can't answer that. It didn't happen.
 18 Q. All right. But the board -- you were keeping an eye?
 19 A. Oh, absolutely, absolutely.
 20 Q. How did it come about that the special independent committee
 21 retained Goldin and Associates?
 22 A. We wanted to get somebody, so we let it out on the street
 23 that we were looking for a very independent, well thought of
 24 person who would do this, look, see outside of even us,
 25 totally independent of the board, here, go do your work. And

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1 I believe it was three names that came back. One was unable
 2 to do it because of being on an extended trip. And Goldin
 3 was one that had a reputation of being independent and above
 4 reproach. And so we said that's the guy we need because we
 5 want somebody that is going to do their thing. And he went
 6 off and did his thing.
 7 Q. Was it your understanding that Goldin and Associates --
 8 withdraw that.
 9 Was it your understanding when the committee retained
 10 Goldin and Associates that Goldin's scope of the
 11 investigation and evaluation was in any way restricted or
 12 limited in terms of what Goldin could look at or find?
 13 A. Absolutely not.
 14 Q. If Mr. Goldin had -- did Mr. Goldin conclude or make any
 15 recommendations to the committee that Mr. Crowley had to be
 16 terminated or Mr. Crowley had to terminate his relationship
 17 with Cerberus?
 18 A. No.
 19 Q. If Goldin and Associates had made such a recommendation,
 20 would you have given it due consideration?
 21 A. Well, I can't -- I mean, how do I know what I would have
 22 done? That's -- it didn't happen so --
 23 Q. During the course of Goldin's investigation, did anyone,
 24 Goldin or any of Coram's counsel say or recommend to the
 25 board of directors, we have to terminate our relationship

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1 advice or recommendations?

2 MS. NIELSEN: Yes.

3 MR. JUDGE: I have no further questions.

4 MS. NIELSEN: Thank you.

5 MS. MIMS: We have a few questions, not
6 much.

7 THE WITNESS: Thank you.

8 MR. JUDGE: Thank you for your time. I
9 really appreciate it.

10 (Discussion off the record.)

11 EXAMINATION

12 BY MS. MIMS:

13 Q. I am Laurie Mims, and I am with the law firm of Kecker and Van
14 Nest, and we met this morning. I told you that I represent
15 Dan Crowley in this matter and in the trustee's matter that's
16 pending in Delaware. And I just have a few follow up
17 questions for you regarding your work with Dan.

18 A. Okay.

19 Q. You said that earlier you testified that you met Dan through
20 his work with HMOs. Could you explain what you know about
21 that?

22 A. He was CEO of Foundation Health. And that was an HMO. It's
23 now it's been sold. But -- and so I just had a professional
24 relationship with him in regards to HMOs, regulations, you

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1 know, issues that could come before the state legislature,
2 they would want to see the secretary of health and welfare,
3 that kind of thing.

4 Q. And you said I believe that you respected his work. What did
5 you know about his work that you respected?

6 A. He was smart, he was a turnaround artist, and he could fix
7 anything.

8 Q. How did you learn that he was a turnaround artist?

9 A. By reputation.

10 Q. When did you learn that Dan Crowley had been retained in some
11 capacity by Coram Healthcare?

12 A. Probably in the fall -- I went on the board in February.

13 Probably in the fall before that.

14 Q. And how did you learn that?

15 A. I had run into him from time to time in passing. And he
16 started saying, well, you know, I'm doing some work at Coram
17 and would you ever be interested in coming on the board. And
18 I said, yes. Then time went. And then he finally asked me
19 to go on the board in February.

20 Q. Did you talk with anyone else other than Mr. Crowley before
21 you joined the board about Coram?

22 A. Yes, Don Amaral and Bill Casey.

23 Q. And at that time were those individuals also members of the
24 Coram board?

25 A. Yes.

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1 Q. And what did they tell you about Coram?

2 A. There was going to be a challenge, that it was a company that
3 was in trouble, and that we were going to have to be really
4 prudent to try to salvage the company but we thought that it
5 could be salvaged.

6 Q. You testified earlier -- and I am just paraphrasing -- that
7 Mr. Crowley was working as a CEO for other entities other
8 than Coram?

9 A. Yes.

10 Q. What do you know about that?

11 A. I don't. I just knew that he was. He had a company called
12 Dynamic Healthcare Solutions. And they bought or would run
13 companies that were in trouble.

14 Q. When did you learn about his company, Dynamic?

15 A. I guess I always knew after he left Foundation that he went
16 into that business.

17 Q. So in the fall of 1999 and the winter of 2000 when you were
18 considering going on the board of Coram, you were aware that
19 Mr. Crowley was working on other things?

20 A. Yes.

21 Q. Did you inquire with him as to what those things were?

22 A. No.

23 Q. Why not?

24 A. I didn't think it was any of my business.

25 Q. Were you aware that he was being compensated by any other

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1 entity?

2 A. Well, not specifically. I mean, what specific entity? I
3 mean, like --

4 Q. Well, any other -- did you think he had any other sources of
5 income other than Coram?

6 A. Oh, yes, because he was working for other companies.

7 Q. Do you know of a company called Winterland?

8 A. He told me about that. Is that the T-shirt company? Yeah.

9 Q. Yes, so it's a T-shirt company. And by he, you mean Dan
10 Crowley told you about that company?

11 A. Yes.

12 Q. What did he tell you about it?

13 A. Minimal. That he was working in that company also.

14 Q. And if you know, around what time frame did he tell you that?

15 A. I don't know.

16 Q. Was it while you were a director at Coram?

17 A. Before.

18 Q. You said this morning that while you were serving on the
19 board of Coram, you and the other board members were keeping
20 an eye or you agreed that you were keeping an eye on Dan
21 Crowley's performance. Can you describe what you did to
22 monitor his performance at Coram?

23 A. Well, we worked, you know, we had board meetings, and he
24 would make reports. And we would talk about money and we
25 would talk about, you know, directions he was going. And so

8 (Pages 26 to 29)

1 STATE OF CALIFORNIA)

2 : ss)

3 County of Alameda)

4
5 I, the undersigned, a Certified Shorthand Reporter
6 of the State of California, do hereby certify: That the
7 foregoing proceedings were taken before me at the time and
8 place herein set forth; that any witnesses in the foregoing
9 proceedings, prior to testifying, were placed under oath;
10 that a verbatim record of the proceedings was made by me
11 using machine shorthand which was thereafter transcribed
12 under my direction; further, that the foregoing is an
13 accurate transcription thereof.

14 I further certify that I am not a relative,
15 employee, attorney or counsel of any party to this action or
16 relative or employee of any such attorney or counsel and that
17 I am not financially interested in the said action or the
18 outcome thereof;

19 IN WITNESS WHEREOF, I have this date subscribed my
20 name.

21 Dated: _____
22
23

24 EMI ALBRIGHT, CSR No. 13042
25

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

Certified Copy

ARLIN M. ADAMS, Chapter II)
 Trustee of the Post-) Case No.
 Confirmation Bankruptcy of) 04-1565
 Estates of CORAM HEALTHCARE)
 CORPORATION, and of CORAM,)
 INC., a Delaware corporation,)
)
 Plaintiff,)
)
 vs.)
)
 DANIEL D. CROWLEY, DONALD J.)
 AMARAL; WILLIAM J. CASEY; L.)
 PETER SMITH; and SANDRA L.)
 SMOLEY,)
)
 Defendants.)
 -----)

Wednesday, February 14, 2007
 10:29 a.m.

Deposition of STEPHEN FEINBERG,
 held at the offices of Cerberus
 Capital Management, L.P., 200 Park
 Avenue, New York, New York 10171,
 pursuant to Notice, before Otis Davis,
 a Notary Public of the State of New
 York.

1 Stephen Feinberg

2 MR. KIPNES: That's two
3 questions. Could you break that up,
4 please.

5 MR. PETERS: Yes.

6 A. Yes to both of them. Me
7 initially and then the board, yes.

8 Q. What do you recall about the
9 board of directors discussions about having
10 Dan Crowley change his role from overseeing
11 Rick Smith and becoming more of a hands-on
12 manager?

13 A. Rick wasn't cooperating, he was
14 probably not the -- it was probably not the
15 best situation anyway, because you needed
16 one top guy getting it done, because the
17 company had gotten so dire.

18 One, Rick wasn't cooperating;
19 two, it was probably better if Dan just ran
20 the whole thing anyway. And the company
21 desperately needed it. The board saw where
22 the company was going. It was pretty
23 obvious and I believe unanimous.

24 Q. Did you ever have any
25 discussions with other board members about

1 Stephen Feinberg
2 how you came to know Dan Crowley about his
3 ongoing relationship with Cerberus?

4 A. Yes.

5 Q. With whom did you have those
6 discussions?

7 A. Don Amaral, for one.

8 Q. Anybody else besides Don
9 Amaral?

10 A. I believe I talked to other
11 board members about it, yes.

12 Q. What do you recall telling Don
13 Amaral on the subject of Cerberus's ongoing
14 relationship with Dan Crowley?

15 A. I told him exactly what it was.

16 Q. What do you recall telling him?

17 A. That he worked on a lot of our
18 companies, that we paid him for it, that he
19 has done a good job for us, and that we
20 have a close relationship.

21 Q. Do you recall -- what do you
22 recall telling other board members about --

23 A. Something similar.

24 Q. Something similar?

25 A. Yes.

1 Stephen Feinberg

2 Q. Did you ever in any way attempt
3 to hide from Don Amaral or any other board
4 members the fact that Dan Crowley had an
5 ongoing relationship with Cerberus?

6 A. No.

7 Q. Was it your understanding --
8 withdrawn.

9 Did you have an understanding
10 as to whether the board members knew that
11 Dan Crowley had an ongoing relationship
12 with Cerberus?

13 A. They did know.

14 Q. All of the board members knew?

15 A. I thought so.

16 Q. Did anybody ever ask you
17 specifically about how much Dan Crowley
18 gets paid to work with Cerberus at any
19 time, anybody from Coram, while you were a
20 board member?

21 A. To the best of my recollection,
22 I told Amaral what he was getting paid.

23 Q. When do you recall telling
24 Mr. Amaral that?

25 A. At some point when Don was

1 Stephen Feinberg
2 negotiating with Dan about his Coram
3 contract.

4 Q. Other than the conversation
5 with Amaral, do you ever recall anybody
6 else ever asking you specifically at any
7 time while you were a board member how much
8 Crowley was getting paid?

9 A. No, I don't believe so.

10 Q. Did you ever feel that you
11 needed to conceal from the board how much
12 Dan Crowley was getting paid by Cerberus?

13 A. No.

14 Q. Did you ever discuss with Dan
15 Crowley concealing from the board of Coram
16 how much Dan Crowley was getting paid by
17 Cerberus?

18 A. No. I assumed -- additionally,
19 I assumed Dan was telling Amaral in these
20 discussions. Amaral was the guy that was
21 negotiating the compensation.

22 Q. And you originally proposed
23 Crowley to the Coram board as a consultant
24 who you knew who could assist Coram; is
25 that right?

1 Stephen Feinberg

2 done a Consulting Agreement, which is what
3 we should have done here. But I wasn't
4 involved with this. He takes care of the
5 agreements and a mistake was made.

6 Q. What was your understanding in
7 November 1999 of the form of the
8 relationship between Cerberus and Dan
9 Crowley, putting aside Coram?

10 A. That he would consult with us
11 and work on companies, on companies we
12 would bring to him if he wanted to, and he
13 would give us advice or more. For that, he
14 received compensation, a yearly salary, and
15 upside on deals that we did that he
16 recommended.

17 Q. It says in paragraph 3.1 under
18 "Basic Compensation" that he would receive
19 a salary of \$80,000 a month.

20 Was he receiving that salary
21 for work on Coram or for work on other
22 projects with Cerberus?

23 A. For work on other projects with
24 Cerberus.

25 Q. How was that number of \$80,000